IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12234 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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LADHARAM SIND HINDU ( HIGHER SECONDARY) HIGH SCHOOL

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 12234 of 2002

MR ASPI M KAPADIA for Petitioner No. 1

MR DIPEN DESAI A.G.P. for Respondent No. 1,3-4

MR HEMANG RAVAL for MR AD OZA for Respondent No. 2

MR SHIRISH JOSHI for Respondent No. 5

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CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 07/05/2003

ORAL JUDGEMENT

Rule. Learned advocate Shri Hemang Raval waives

service of rule on behalf of respondent no.2, learned A.G.P. Shri Desai waives service of rule on behalf of respondents nos.1, 3 & 4 and learned advocate Shri Shirish Joshi waives service of rule on behalf of respondent no.5. At the request of learned advocates the petition is finally heard today.

2. The grievance which the petitioner has ventilated in this petition is that respondent no.5 is acting in violation of the legal provisions by giving admission to boy students in standard VIII of a school managed by it. According to learned advocate Shri A.S. Kapadia appearing for the petitioner, it is not open to respondent no.5 to give admission to boy students in standard VIII because respondent no.5 is managing the school meant for girls.

3. In pursuance of notice issued by this Court learned advocate Shri Shirish Joshi has appeared for respondent no.5 and has submitted that according to the prevailing Rules and Regulations it is open to respondent no.5 to give admission to boy students in standard VIII.

4. On behalf of respondent no.2 i.e. Gujarat Secondary Education Board learned advocate Shri Hemang Raval has appeared and has submitted that when the fact with regard to giving admission to boy students in standard VIII of school managed by respondent no.5 was brought to the notice of respondent no.4, respondent no.4 had issued notice to respondent no.5 and appropriate action is being taken by respondent no.4 against respondent no.5. It has also been submitted that even respondent no.2 - Board will initiate action against respondent no.5, if it is found that respondent no.5 is giving admission to boy students in standard VIII in violation of the relevant Regulations or in violation of the conditions on which the school was given recognition.

5. Looking to the fact that respondent no.2 - Board as well as respondent no.4 have initiated action against respondent no.5 for the alleged irregularities/ illegalities committed by respondent no.5, in my opinion, nothing further is required to be done by this Court. It is directed that respondents nos.2 and 4 shall do the needful as soon as possible and shall also give notice to the petitioner and hear the petitioner as the petitioner has informed the concerned authorities as well as this Court about the alleged irregularities/illegalities committed by respondent no.5. Learned advocate Shri Shirish Joshi appearing for respondent no.5 has fairly submitted that he has no objection if the petitioner is

also heard by respondents nos. 2 and 4.

6. In the circumstances, respondents nos.2 and 4 are directed to look into the alleged irregularities/ illegalities committed by respondent no.5 and take corrective measures in accordance with law after hearing respondent no.5 as well as the petitioner. It is hoped that final decision shall be taken by both the authorities or the concerned authority as soon as possible and preferably within a period of six weeks from today.

6.1. Needless to say that if any of the parties is aggrieved by the order which might be passed by respondents nos.2 and 4, it would be open to the aggrieved party to take appropriate action for challenging the validity of the said order.

7. Both the learned advocates, Shri Shirish Joshi as well as Shri Kapadia, have submitted that their clients shall not pray for time before the authorities and shall extend their co-operation to the authorities so that appropriate decision can be taken by the authorities as directed by this Court.

8. In view of the above direction given to the authorities, the grievance of the petitioner would not survive. The petition is allowed to the aforesaid extent. Rule is made absolute with no order as to costs.

[A.R. DAVE, J.]

/phalguni/